

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**JOHN DOE I, b/n/f PARENTS OF JOHN
DOE I; JANE DOE I, b/n/f PARENTS OF
JANE DOE, et al., and on behalf of other
students similarly situated;**

Proposed Class, Plaintiffs,

vs.

**ALLEN INDEPENDENT SCHOOL, MS.
AMY GNADT, President; MS. KELLEY
ROWLEY, Vice-President; MR. DAVID
NOLL, Secretary and Board Members
MR. KEVIN CAMERON, MS. SARAH
MITCHEL, DR. POLLY
MONTGOMERY and MR. VATSA
RAMANTHAN; IN THEIR OFFICIAL
CAPACITIES,**

Defendants.

Civil Action No. 4:21-cv-00697-SDJ

DEFENDANTS' RESPONSE TO PLAINTIFFS' OPPOSED MOTION TO SEAL

Pursuant to the Court's Order [Dkt. 12], Defendants file the following response in opposition to Plaintiffs' Opposed Motion to Seal [Dkt. 8].

1. Plaintiffs filed their motion to seal pursuant to Fed. R. Civ. P. 5.2 and Local Rule CV-5(7), arguing in conclusory fashion that filing their pleadings under seal is justified because their filings "contain confidential, sensitive and private information for which special protection from public disclosure and form [sic] use for any purpose other than prosecuting this litigation would be warranted"¹ and, "[m]oreover, the parents of JOHN DOE I and JANE DOE I, as well as for

¹ This Court's standard Order Governing Proceedings already allows for the safeguarding of personal information *without sealing documents* by providing that "all documents filed with the Court and made available to the public, whether electronically or on paper, should limit certain information as follows: for social security numbers, use only the last four digits; for financial account numbers, use only the last four digits; for names of minor children, use only their initials; [and] for dates of birth, use only the year."

themselves are fearful of punitive and retaliatory measures from members of the Allen Independent School District Community.” Dkt. 8, ¶¶ 1-2. These conclusory statements, however, are insufficient to overcome the public’s right to judicial records filed with the Court.

2. In *Binh Hoa Le v. Exeter Fin. Corp.*, 990 F.3d 410 (5th Cir. 2021), the Fifth Circuit admonished district courts to remember “[j]udicial records are public records. And public records, by definition, presume public access.” *Id.* at 416. In *Binh Hoa Le*, the Fifth Circuit expounded upon the history and importance of public access to judicial records that traces a noble lineage “back to Roman law.” *Id.* at 418.

3. The Fifth Circuit further explained that there are two distinct standards for sealing documents. “The first standard, requiring only ‘good cause,’ applies to protective orders sealing documents produced in discovery.” *Id.* at 419. “The second standard, a stricter balancing test, applies ‘once a document is filed on the public record’ – when a document ‘becomes a judicial record.’ Under both standards, the working presumption is that judicial records should not be sealed.” *Id.* (internal citations omitted).

4. As opposed to sealing documents produced in discovery, at the *filing* stage, “‘judges, not litigants’ must undertake a case-by-case, ‘document-by-document’, ‘line-by-line’ balancing of ‘the public’s common law right of access against the interests favoring nondisclosure.’ Sealings must be explained at ‘a level of detail that will allow for this Court’s [the Fifth Circuit’s] review.’ And a court abuses its discretion if it ‘makes no mention of the presumption in favor of the public’s access to judicial records’ and fails to ‘articulate any reasons that would support sealing.’” *Id.* (internal citations omitted).

5. Here, Plaintiffs' motion does not set forth any facts, as opposed to mere conclusory statements, to overcome the public's access to the parties' court filings in this case. For this reason, Defendants oppose Plaintiffs' motion to seal.

Respectfully submitted,

**ABERNATHY, ROEDER, BOYD &
HULLETT, P.C.**

/s/Charles J. Crawford

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2021 a true and correct copy of Defendants' Response to Plaintiffs' Opposed Motion to Seal was served upon Plaintiffs' attorney by the Court's ECF system.

/s/Charles J. Crawford

Charles J. Crawford